

**Applicant:** Gonzales Rentals Partnership

**Agent:** Garcia/Kraemer & Assoc.

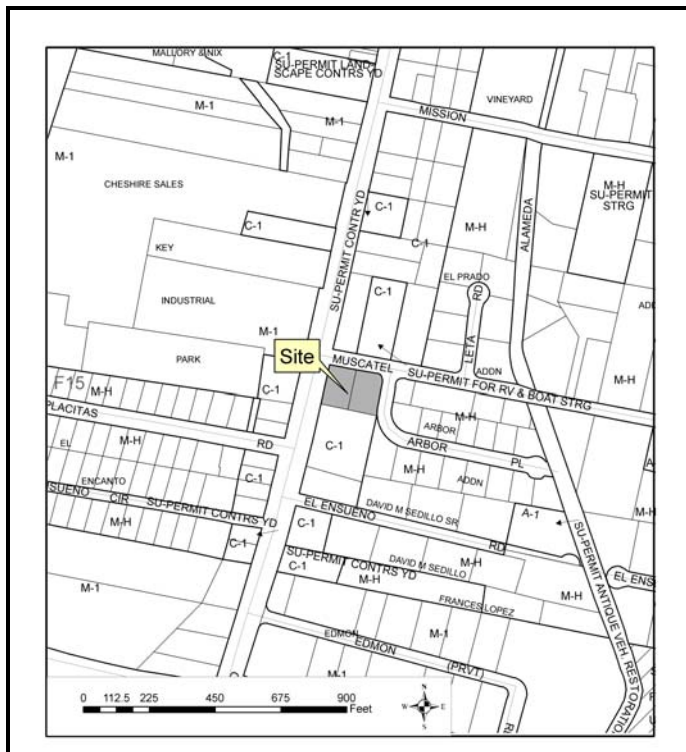
**Location:** 5802 Edith Blvd. NE

**Property Size:** .55 acres (approximately)

**Existing Zone:** C-1

**Proposed Zoning/SUP** Special Use Permit for Contractor's Yard

**Recommendation:** Approval



**Summary:** This request is for a Special Use Permit for a Contractor's Yard on a .55 acre tract (two parcels) of land on the southeast corner of Edith Blvd. and Muscatel Ave. about 1000 feet north of Montano Rd. The property has C-1 zoning, but one of the parcels had a Special Use Permit for Auto Sales, which was recently removed at the owner's request (CZ-95-13). The request results from a zoning violation in which the use (contractor's yard) was established without the proper zoning.

**Staff Planner:** Catherine VerEecke, Program Planner

**Attachments:**

1. Application
2. Area and Land Use Maps
3. Special Use Permit Notice of Decision.
4. Notice of Violation
5. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 7/24/06 to 8/14/06. Their comments were used in preparation of this report, and begin on Page 10.

**AGENDA ITEM NO.: 11**  
**County Planning Commission**  
**September 6, 2006**

CSU-60034 Garcia/Kraemer & Associates, agent for Gonzales Rentals Partnership, requests approval of a Special Use Permit for a Contractor's Yard on Tracts A & B, located at 5802 Edith Boulevard NE on the southeast corner of Edith Boulevard and Muscatel Avenue, zoned C-1, and containing approximately .55 acres. (F-15)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land use</b>
	C-1	Contractor's yard Single Family Residential
<b>North</b>	C-1 C-1/Special Use Permit for RV & boat storage	Vacant RV & Boat storage and caretaker's residence
<b>South</b>	C-1	Commercial
<b>East</b>	M-H	Single Family Residential
<b>West</b>	M-1&C-1	Industrial park Retail

## **BACKGROUND**

### **The Request**

The applicant is requesting a Special Use Permit for a Contractor's Yard and a Watchman Caretaker's Residence on a .55 acre tract of land located on the southeast corner Edith Blvd. and Muscatel Ave., about 1000 feet north of Montano Rd. The property currently has C-1 zoning and includes a shop (storage building), a large parking area, a large garage, and a small residence adjacent to Muscatel Ave. and Arbor Pl. and a large enclosed rear yard. The residence will house the caretaker's residence.

In 1995, the Board of County Commissioners voted, on appeal, to deny a request for C-2 zoning and grant a Special Use Permit for Auto Sales (CZ-95-13) (Attachment 3). This use has been discontinued and no longer appears on the Zone Map.

About one year ago, the current property owner requested a Conditional Use Permit to allow a temporary construction yard (the current use) on one of the parcels in the current request (ZA-50122). This request was denied when the contractor failed to post the sign and attend the Zoning Administrator's hearing. Subsequently, a Notice of Violation was sent to the property owner (Attachment 4). The applicant has included the two parcels in the request as the use has expanded to the second parcel.

The site plan includes the caretaker's residence and garage, 12 spaces for the contractor's yard, which is mainly for parking of vehicles, and two buildings (apparently for storage).

Request justification. In the response to Resolution 116-86, the applicant states that the proposed land use will not be harmful to the area, as it will be consistent with other businesses in the area. It also is consistent with the Comprehensive and Master Plans for the area that encourage development and redevelopment of properties with commercial zoning. Further, he states, the existing C-1 zoning is not appropriate for the site as C-2 or M-1 uses are more common in the area than C-1 uses.

### **Surrounding Land Uses and Zoning**

Although the property is located nearby an established residential subdivision (Vineyard Addition), the general vicinity of the site near Edith Blvd. has a mixture of uses. Generally, in this area on the east side of Edith Blvd., the first two lots from the main street properties have C-1 zoning, though many appear not to be used for retail and have either commercial uses or residential uses, including a number of rental properties. On the west side of Edith Blvd., most properties now have M-1 zoning with such uses as office/warehouse, lumber yard, and auto dismantling yard. The property to the immediate south has an auto service business (emissions) on it.

To the immediate north of the site, one parcel has C-1 zoning and is vacant. To the east of that parcel, a property recently received a Special Use Permit for RV and Boat Storage (CSU-50012).

The properties to the east, northeast, north, and southeast of the subject site have single

family residences on them with residential uses, with M-H zoning.

Several other nearby properties have Special Use Permits for more intense uses than allowed by the existing C-1 zoning. To the immediate south and further north of the site along Edith Blvd., several properties have Special Use Permits for Contractor's Yards (e.g., CSU-87-42; CZ-93-22).

#### **APPLICABLE PLANS AND POLICIES:**

##### **Albuquerque/Bernalillo County Comprehensive Plan**

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal goal for this area is to "maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses."

##### **North Valley Area Plan**

This property is located within the Semi-Urban area of the North Valley Area Plan. The plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets, with the appropriate gross density at 1 to 3 dwelling units per acre.

Policy 2.3.c states that the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties.

Policy 2d (Land Use) requires landscape buffering and other measures are necessary to limit potential impacts of non-residential uses on residential areas.

The property is also located in an area the Plan refers to as the Edith Blvd. corridor in a sub-area described as "rural-residential" between Osuna Rd. and Griegos Rd. However, the Plan does note that some locations within this area along Edith Blvd. have made a transition to manufacturing/heavy commercial uses. The Plan states that the "land use pattern should reflect the present zoning" (Appendix, p.4).

##### **Bernalillo County Zoning Ordinance**

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.

- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. There was an error in the original zone map.
  - 2. Changed neighborhood or community conditions justify a change in land use or
  - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
  - 1. denied due to lack of capital funds; or
  - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

The applicant has requested a Special Use Permit for an a contractor's yard to be located on approximately .55 acres to the east of Edith Blvd. at Muscatel Ave. The property already has C-1 zoning, which does not allow the type of use being requested. This use may be compatible with some of the non-residential uses nearby the property along Edith Blvd., which were established over the last twenty years under M-1 zoning or Special Use Permits. There are, however, residential properties to the east and northeast of this business, so that efforts should be made to minimize the impacts on the residences.

### **Plans**

This property is located in the Semi-Urban Area. The Comprehensive Plan and the North Valley Area Plan suggest that this Area should retain its semi-rural, residential character and should not allow new permanent zone changes or special use permits for industrial or heavy commercial uses. However, the North Valley Area Plan does state that existing commercially-zoned properties may be developed or redeveloped with commercial uses and recognizes that parts of Edith Blvd. have existing heavy commercial and light industrial uses.

### **Zoning Ordinance**

It appears this request is consistent with Resolution 116-86 of the Zoning Ordinance in that the particular use being proposed would not have a significant impact on adjacent properties and would be consistent with other uses in the area. It also appears that 'changed neighborhood conditions' can be used as a justification for this request as there has been a change towards more intense M-1 and C-2 uses in the area. The request is also consistent with the North Valley Area Plan policies that support the redevelopment of existing commercially-zoned properties.

### **Agency Comments**

County staff and representatives from other agencies have provided comments on this case. A majority have no adverse comments on the case. The Zoning Administrator notes in his comments that the site plan appears to comply with landscaping and parking requirements of the County Zoning Ordinance but that clarification is needed regarding the type of surfacing that will be used for the off-street parking spaces (concrete or other bituminous material - Sec. 21.D.). He recommends compliance with signage requirements for C-1 zoning. Any open storage of materials must be screened. Complete fencing (including material type) must be shown on the final site plan if the request is approved. Public Works comments indicate that the width of Edith Blvd. adjacent to the site must be shown on the site plan.

County Environmental Health comments state that the property has an account for City/County water service. However, it does not appear to be connected to sewer service and any septic systems of the property must be abandoned.

### Analysis Summary

<b>Zoning</b>	
Resolution 116-86	Changed neighborhood conditions appear to exist. Use is consistent with other nearby uses along Edith Blvd.
Requirements	Comply with code requirements for landscaping, fencing, signage; surfacing
<b>Plans</b>	
Comprehensive Plan	Use is not inconsistent with Semi-urban Area designation.
Area Plan	Use is consistent with North Valley Area Plan policies regarding re-development of commercial properties
<b>Other Requirements</b>	
Environmental Health	Has water accounts; must connect to sewer service.
Public Works	Show width of Edith Blvd. on site plan.
Zoning	Provide appropriate surfacing for parking area.

### Conclusion

In conclusion, it appears that a Special Use Permit for a Contractor's Yard could be appropriate in this instance. The use as it currently exists on the site and is proposed in the request would have limited impact on the area and would be consistent with policies in the North Valley Area plan regarding the redevelopment of commercially-zoned properties. (The site currently has C-1 zoning). Conditions of approval could help mitigate the impacts of the use on the nearby residential properties. Staff recommends a short term for the Special Use Permit as the existing use appears to be temporary.

**FINDINGS:**

1. This request is for approval of a Special Use Permit for a Contractor's Yard and Caretaker's Residence on Tracts A & B, Replat of Lot 48, Vineyard Addition, Number 1, located at 5802 Edith Boulevard NE on the southeast corner of Edith Boulevard and Muscatel Avenue, zoned C-1, and containing approximately .55 acres.
2. The property is located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. This request is consistent with Resolution 116-86 in that the proposed land use is more advantageous to the community in that the North Valley Area Plan Policy 2.3.c states that the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties.
4. This request is consistent with Resolution 116-86 in that changed neighborhood conditions in the vicinity of the site, including the development of several heavy commercial and light industrial businesses, justify this land use change.
5. This request is consistent with the health, safety, and general welfare of the residents of the County.

APPROVAL of CSU-60034, based on the above Findings, subject to the following Conditions.

Catherine VerEecke  
Program Planner



**CONDITIONS OF APPROVAL**

1. The applicants shall comply Bernalillo County Zoning Ordinance requirements for signage (C-1 zoning) and paving (for parking areas).
2. Lighting shall be site specific. Shielded or cutoff features shall be provided so that no fugitive light crosses into adjacent lots. On-site lighting shall be shown on the revised site plan.
3. No parking will be allowed along Edith Blvd., Muscatel Rd., or Arbor St.
4. Any open storage of materials must be screened by a six foot high solid wall.
5. Hours of operation shall be Monday to Friday, 7 a.m. to 6 p.m., and Saturday 8 a.m. to noon.
6. There shall be a six-foot high solid fence along the property line abutting residential uses to be installed within six months of the final Board of County Commissioners' approval.
7. There shall be a 10 foot wide landscaped front yard along the property's three frontages. Landscaping shall be installed within six months of the final Board of County Commissioners' approval and shall be in compliance with the landscaping requirements in the County Zoning Ordinance.
8. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
9. The Special Use Permit shall be issued for two (2) years.
10. A revised site development plan consistent with the Conditions of Approval shall be submitted for review and approval to the Zoning Administrator within two months after the final approval of the Board of County Commissioners. The site development plan shall include the required landscaping, fencing, and signage details.
11. The foregoing conditions shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit.

## **BERNALILLO COUNTY DEPARTMENT COMMENTS**

### **Building Department:**

No comments received.

### **Environmental Health:**

1. COA water Acct#-23011939

2. Must prove wastewater systems means. No COA sewer and no septic tank permit. What is the wastewater system on the property.

3. A wastewater system meeting the most current Wastewater Ordinance of Bernalillo County shall be installed on the property and permitted and inspected by Bernalillo County EH Office or if COA Sewer is available must connect to COA sewer service.

### **Zoning Enforcement Manager:**

Must comply with all Bernalillo County Code regulations for this project. Currently still in violation of operating a contractor's yard w/o proper permitting. A pending criminal complaint is in file, if special use is denied. Violations date back to 1999.

### **Zoning Administrator**

#### **COMMENTS RELATING TO THE PROPOSED USE**

The storage, rental or sale of contractor's equipment is first listed as a permissive use in the C-LI zone, and is also listed as such in the M-1. The M-2 zone allows all M-1 uses permissively.

Similarly, the following terms are also defined in Section 5 of the ordinance:

**Contractor.** One that contacts or is a party to a contract, one that contracts to perform work or provide services or supplies on a large scale including but not limited to a general contractor, road contractor, lath and plaster contractor, plumbing contractor, and truck hauling.

**Contractor's Yard.** A premises where equipment, materials and supplies are stored, kept and/or maintained in connection with a contracting operation.

This type of use is often recognized as needing sufficient mitigation methods to reduce the likelihood of adverse impact on surrounding properties, especially residential uses. These include screening by way of a solid fence or wall, sufficient landscaping to create a visual buffer, surfacing of parking areas, and limits on related uses such as signage, equipment/material storage locations, and hours of operation.

It has been noted that a recent request for conditional use approval to allow a temporary construction yard was made in July 2005 after cancellation of a previous SUP, but because the sign posting requirements were never met and no one appeared at the public hearings to present the proposal, the matter was denied on October 18, 2005. No appeal was filed.

**COMMENTS RELATING TO THE SITE PLAN**

The provided landscaping plan appears to sufficiently meet the necessary requirements for buffer width, vegetation coverage, and planting types. Other than concerns about the placement of landscaping within the right-of-way along Edith Boulevard, staff has no adverse comments concerning this portion of the application.

The other drawing also appears to meet the submittal requirements, and only needs clarification regarding the type of surfacing that will be used for the off-street parking spaces (concrete or other bituminous material - Sec. 21.D.) and specifics on any existing or proposed signs to be used in connection with the activity (C-1 limitations recommended). The bicycle rack requirement can be waived at this time.

**Fire:**

No comment received

**Public Works:**

**DRAN:**

No comments received.

**DRE:**

1. Show the right-of-way width of Edith Boulevard, Muscatel Drive and Arbor Street on the site plan.

**Parks & Recreation:**

REVIEWED, NO ADVERSE COMMENT.

**Sheriff's:**

No comment received

**COMMENTS FROM OTHER AGENCIES**

**MRGCOG:**

No comment.

**AMAFCA:**

No comment.

**City Planning Department:**

No comments received.

**City Public Works:**

Transportation Planning: No comments received.

Transportation Development: No adverse comments.

Water Resources: Existing water accounts for both 5802 Edith and 410 Muscatel DO NOT have sanitary sewer accounts. Properties MUST connect to available sewer lines and open accounts.

City Transit:  
No objections.

City Environmental Health:  
No comments received.

City Open Space:  
Open Space does not have any comments regarding projects to be heard on September 6, 2006.

APS  
The request for a special use permit for a contractor's yard at 5802 Edith Blvd NE will have no adverse impacts to the APS district.

**NEIGHBORHOOD ASSOCIATIONS:**  
North Edith Corridor Association